

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES M. LEDAKIS
Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General

4 110 West "A" Street, Suite 1100
San Diego, CA 92101

5 P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9
10 **BEFORE THE**
11 **BOARD OF REGISTERED NURSING**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2009-6

14 SHANELLE GAY CARRELL
2331 Conway Drive
15 Escondido, CA 92026

A C C U S A T I O N

16 Registered Nurse License No. 301148

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs, State of California.

24 2. On or about March 31, 1979, the Board of Registered Nursing issued
25 Registered Nurse License No. 301148 to Shanelle Gay Carrell (Respondent). The license was in
26 full force and effect at all times relevant to the charges brought herein, and will expire on
27 September 30, 2008, unless renewed.

28 ///

1

2

5

9

0

2

3

5

6

9

20

1

4

5

1 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
2 license.

3 “(c) Be convicted of a criminal offense involving the prescription, consumption,
4 or self-administration of any of the substances described in subdivisions (a) and (b) of this
5 section, or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof.

8 “....”

9 7. Section 482 of the Code states:

10 “Each board under the provisions of this code shall develop criteria to evaluate the
11 rehabilitation of a person when:

12 “....

13 “(b) Considering suspension or revocation of a license under Section 490.”

14 “Each board shall take into account all competent evidence of rehabilitation
15 furnished by the applicant or licensee.”

16 8. Section 490 of the Code states:

17 “A board may suspend or revoke a license on the ground that the licensee has
18 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
19 duties of the business or profession for which the license was issued. A conviction within the
20 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
21 contendere. Any action which a board is permitted to take following the establishment of a
22 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
23 been affirmed on appeal, or when an order granting probation is made suspending the imposition
24 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
25 Penal Code.”

26 9. Section 493 of the Code states:

27 “Notwithstanding any other provision of law, in a proceeding conducted by a
28 board within the department pursuant to law to deny an application for a license or to suspend or

1 revoke a license or otherwise take disciplinary action against a person who holds a license, upon
2 the ground that the applicant or the licensee has been convicted of a crime substantially related to
3 the qualifications, functions, and duties of the licensee in question, the record of conviction of the
4 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of the crime in
6 order to fix the degree of discipline or to determine if the conviction is substantially related to the
7 qualifications, functions, and duties of the licensee in question.

8 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
9 'registration.'"

10 10. California Code of Regulations, title 16, section 1444, states:

11 "A conviction or act shall be considered to be substantially related to the
12 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
13 present or potential unfitness of a registered nurse to practice in a manner consistent with the
14 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
15 following:

16 "..."

17 11. California Code of Regulations, title 16, section 1445, states:

18 "..."

19 "(b) When considering the suspension or revocation of a license on the grounds
20 that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of
21 such person and his/her eligibility for a license will consider the following criteria:

22 "(1) Nature and severity of the act(s) or offense(s).

23 "(2) Total criminal record.

24 "(3) The time that has elapsed since commission of the act(s) or offense(s).

25 "(4) Whether the licensee has complied with any terms of parole, probation,
26 restitution or any other sanctions lawfully imposed against the licensee.

27 "(5) If applicable, evidence of expungement proceedings pursuant to
28 Section 1203.4 of the Penal Code.

1 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

2 COST RECOVERY

3 12. Section 125.3 of the Code provides, in pertinent part, that the Board may
4 request the administrative law judge to direct a licensee found to have committed a violation or
5 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
6 and enforcement of the case.

7 FIRST CAUSE FOR DISCIPLINE

8 (February 25, 2003 Criminal Conviction–

9 Driving While Having a Blood Alcohol Level of .08% or More,

10 Causing Bodily Injury to Another Person)

11 13. Respondent is subject to disciplinary action under Code sections 490 and
12 2761, subdivision (f), for a criminal conviction that is substantially related to her qualifications,
13 functions, and duties as a registered nurse. The circumstances are as follows:

14 a. On or about June 5, 2002, Respondent did unlawfully drive a
15 motor vehicle while having .08 percent or more by weight of alcohol in her blood, and at an
16 unsafe speed, which proximately caused bodily injury to another person, in violation of Vehicle
17 Code section 23153, subdivision (b).

18 b. On or about February 25, 2003, in a criminal proceeding entitled
19 *People v. Shanelle Gay Carrell*, in San Diego County Superior Court, Case Number
20 SCN146951, Respondent was convicted by her plea of guilty to a violation of Vehicle Code
21 section 23153, subdivision (b) [driving while having a blood alcohol level of .08% or more and
22 concurrently doing any act forbidden by law which causes bodily injury to another person], a
23 felony.

24 c. On or about April 28, 2003, Respondent was sentenced by the
25 court as follows: imposition of sentence suspended and Respondent placed on formal probation
26 for a period of five (5) years. Respondent was also sentenced to jail for 90 days, to successfully
27 complete a substance abuse counseling program, to enroll in the SB38/First Conviction Program,
28 to attend one MADD impact panel within thirty (30) days of release from custody, and to pay a

1 fine of \$1,787.00.

2 **SECOND CAUSE FOR DISCIPLINE**

3 (Unprofessional Conduct– Conviction of Crime Involving Alcohol)

4 14. Respondent is subject to disciplinary action under Code section 2761,
5 subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762,
6 subdivision (c), in that she was convicted of a criminal offense involving the consumption or
7 self-administration of alcohol as set forth in paragraph 13 above, which is hereby incorporated by
8 reference.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct– Use of Alcohol to Extent Dangerous to Self or Others)

11 15. Respondent is subject to disciplinary action under Code section 2761,
12 subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762,
13 subdivision (b), in that she used alcoholic beverages to an extent or in a manner dangerous or
14 injurious to herself, any other person, or the public, or to the extent that such use impaired her
15 ability to conduct with safety to the public the practice authorized by her license, as set forth in
16 paragraph 13 above, which is hereby incorporated by reference.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct)

19 16. Respondent is subject to disciplinary action under Section 2761,
20 subdivision (a), in that on or about January 7, 2005, and on or about the week of January 10,
21 2005, while working as a registered nurse for Maxim Healthcare Services, Respondent engaged
22 in unprofessional conduct in her care of patients assigned to her. The circumstances are as
23 follows:

24 A. On January 7, 2005, Respondent missed a scheduled appointment to open
25 an I.V. for a patient at the patient's home.

26 B. On or about the week of January 10, 2005, Respondent missed several
27 scheduled appointments to provide health care to patients at their homes.

28 ///

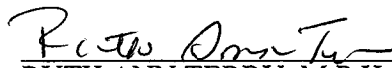
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License No. 301148 issued to Shanelle Gay Carrell;
2. Ordering Shanelle Gay Carrell to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/1/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2008800649
80253387.wpd